

FILED

MAY 28 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General
GEOFFREY S. ALLEN
Deputy Attorney General
State Bar No. 193338
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5341
Facsimile: (916) 327-8643
Attorneys for Complainant

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. PT-2011-1632

**CARLO ALOOT DEVERA
265 N. Belmont Street
Porterville, California 93257**

A C C U S A T I O N

Psychiatric Technician License No. PT 34409

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

2. On or about September 22, 2008, the Board issued Psychiatric Technician License Number PT 34409 to Carlo Aloom Devera ("Respondent"). Respondent's psychiatric technician license was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2013, unless renewed.

///

///

///

STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 4520 provides, in pertinent part, that the Board may discipline any licensed psychiatric technician for any reason provided in Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code § 4500, et. seq.)

4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 4545, the Board may renew an expired license at any time within four years after the expiration.

5. Code section 4521 states, in pertinent part:

The board may suspend or revoke a license issued under this chapter [the Psychiatric Technicians Law (Bus. & Prof Code section 4500, et seq.)] for any of the following reasons:

(a) Unprofessional conduct, which includes but is not limited to any of the following:

....

(5) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(6) Be convicted of a criminal offense involving the falsification of records concerning prescription, possession, or consumption of any of the substances described in paragraphs (4) and (5), in which event the record of the conviction is conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

....

(f) Conviction of any offense substantially related to the qualifications, functions, and duties of a psychiatric technician, in which event the record of the conviction shall be conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline . . .

6. Code section 4523 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a psychiatric technician is deemed to be a conviction within the meaning of

1 this article. The board may order the license suspended or revoked or may decline to
2 issue a license, when the time for appeal has lapsed, or the judgment or conviction
3 has been affirmed on appeal or when an order granting probation is made suspending
4 the imposition of sentence, irrespective of a subsequent order under the provisions of
5 Section 1203.4 of the Penal Code allowing the person to withdraw his plea of guilty
6 and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing
7 the accusation, information, or indictment.

8 **COST RECOVERY**

9 7. Code section 125.3 provides, in pertinent part, that a Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 **FIRST CAUSE FOR DISCIPLINE**

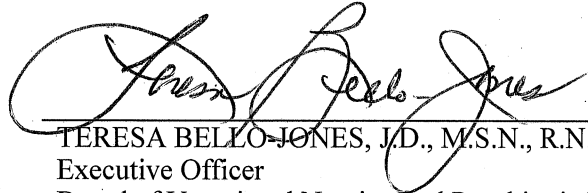
14 **(Criminal Conviction)**

15 8. Respondent is subject to disciplinary action pursuant to Code section 4521,
16 subdivision (f), in that on or about January 17, 2012, in Tulare County Superior Court, Case No.
17 PCM259459, Respondent pled nolo contendere to violating Vehicle Code section 23152,
18 subdivision (b) (driving while having a 0.08 percent or higher blood alcohol), a misdemeanor, a
19 crime substantially related to the qualifications, functions, and duties of a psychiatric technician.
20 The circumstances of the crime are as follows: On or about October 1, 2011, an officer with the
21 California Highway Patrol ("CHP") initiated an enforcement stop on Respondent's vehicle. When
22 the officer made contact with Respondent, he immediately smelled the odor of an alcoholic
23 beverage coming from within the vehicle. The officer also noticed that Respondent's eyes were
24 red and watery. Respondent admitted to the officer that he drank 2 cans of Bud Light Beer about
25 2 hours previously. As the officer was speaking with Respondent, he smelled the odor of an
26 alcoholic beverage on his breath. The officer administered various field sobriety tests, which
27 Respondent could not perform as demonstrated. The officer placed Respondent under arrest for
28 driving under the influence of alcohol and transported him to the Porterville Area CHP Office,
where he underwent breath tests. Respondent's breath test results showed that he had a blood
alcohol level of 0.11 and 0.10 percent. Later, the officer noted in his investigation report that
Respondent had a passenger in his vehicle at the time of the above incident.

1 2. Ordering Carlo Aloat Devera to pay the Board of Vocational Nursing and Psychiatric
2 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to
3 Business and Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

5
6 DATED: May 23, 2013



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28 SA2012106634